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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,141	06/15/2001	Shuji Takana	1422-0480P	6016

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,141

Applicant(s)

TAKANA ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/4/05</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. This action is responsive to the amendment filed on July 11, 2005.
2. Claims 1-6, 8, 16 and 18 are pending.
3. The rejection of claims 1-6, 8, 16 and 18 under 35 U.S.C. 103(a) as being unpatentable over Emery et al. (US Patent No. 6,191,095) is withdrawn in view of Applicants' amendment and arguments therein.
4. Claims 1-6, 8, 16 and 18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson et al. (US Patent No. 4,900,466), hereinafter "Atkinson" for the reasons set forth in the previous office action.

Response to Applicants' Arguments

5. Applicants' arguments filed July 11, 2005 have been carefully considered but they are not persuasive.

With respect to the rejection based upon Atkinson, Applicants argue that the Examiner seems to only refer to detergent additive particles and that the pending claims are directed to composite detergent particles obtained by dry-mixing detergent additive particles (a) and detergent particles (b), and that the weight ratio of detergent additive particles (a)/detergent particles (b) is now recited to be 15/85 to 40/60. Applicants also argue that claim 1 has been amended to recite that the content of surfactant in the detergent additive particles (a) is "less than

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4% by weight”, which is not taught or rendered obvious by the disclosure of the cited Atkinson reference.

The Examiner respectfully disagrees with the above arguments because of the following reasons. In col. 2, line 67 to col. 3, line 27, Atkinson teaches a process for the production of a powder suitable for use as a granular detergent composition or a component thereof, which comprises the steps of (i) preparing an aqueous slurry comprising sodium carbonate, and optionally also comprising sodium sulphate, an effective amount of a crystal growth modifier which is an organic material having at least three carboxyl groups in the molecule; and optionally one or more anionic and/or nonionic detergent active compounds, (ii) drying to form a powder; (iii) optionally incorporating into the dried powder one or more detergent components in liquid form and or mixing the dried powder with one or more solid detergent components. In col. 6, lines 62-68, Atkinson also teaches that the spray-dried powder of step (ii) may be a predominantly inorganic carrier intended specially as a vehicle for the nonionic surfactant, and may perhaps form only a minor part of the final product, and in step (iii) it will then be mixed with the main product, which might itself have been spray-dried in a separate operation. In col. 9, lines 51-62, Atkinson teaches that an adjunct will be prepared by spraying liquid or liquefied nonionic surfactant onto a spray-dried carrier material according to the invention, and the adjunct is then postdosed to a base powder containing anionic surfactant, possibly nonionic surfactant and builders prepared in a separate spray-drying operation and that the adjunct, may, for example, contain from 5 to 40% by weight of nonionic surfactant and from 60 to 95% by weight of crystal-growth-modified inorganic salts and that the adjunct may, for example, constitute from 5 to 20% by weight of the final powder. In Examples 24 and 25 as stated in the previous office

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action, the adjunct carrying nonionic surfactant is mixed with a spray-dried base powder. Hence, it is clear from the above teachings that Atkinson teaches composite detergent particles comprising the adjunct carrier [equivalent to additive particles (a)] and spray-dried base powder [equivalent to detergent particles (b)]. The teachings above with respect to the adjunct constituting from 5 to 20% by weight of the final powder overlaps the required weight ratio of additive particles (a)/ detergent particles (b) of 15/85 to 40/60. Regarding the amount of surfactant in the adjunct carrier, it should be noted that the addition of one or more anionic and/or nonionic detergent active compounds to the slurry in step (i) is optional, hence the resulting dried powder need not contain anionic and/or nonionic detergent active compounds, hence, this would read on the present claims' "less than 4% by weight". Even assuming the 5-40 wt% nonionic surfactant which is sprayed onto the adjunct is considered part of the adjunct, the lower limit still reads on "less than 4% by weight" because a *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties, see *Titanium Metals Corp. of America v. Banner*, 778F.2d 775, 227 USPQ 773 (Fed. Cir. 1985), *In re Woodruff* 16 USPQ 2d 1934 (Fed. Cir. 1990); See MPEP 2144.05I.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
Lorna M. Douyon
Primary Examiner
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